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88501 7590 06/05/2009 HARRITY & HARRITY, LLP 11350 RANDOM HILLS ROAD			EXAMINER	
			PHAN, HUY Q	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Application No. Applicant(s) 10/595,565 ANDERSSON, MAGNUS Office Action Summary Examiner Art Unit HUY Q. PHAN 2617 -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS. WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status 1) Responsive to communication(s) filed on 27 April 2006. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 36-74 is/are pending in the application. 4a) Of the above claim(s) _____ is/are withdrawn from consideration. 5) Claim(s) _____ is/are allowed. 6) Claim(s) 36-74 is/are rejected. 7) Claim(s) _____ is/are objected to. 8) Claim(s) _____ are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are; a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abevance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.

1) Notice of References Cited (PTO-892)

Paper No(s)/Mail Date _

Notice of Draftsperson's Patent Drawing Review (PTO-948)
 Notice of Draftsperson's Patent Drawing Review (PTO-948)
 Notice of Draftsperson's Patent Drawing Review (PTO-948)

Attachment(s)

Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.

6) Other:

5) Notice of Informal Patent Application

Application/Control Number: 10/595,565 Page 2

Art Unit: 2617

DETAILED ACTION

Information Disclosure Statement

 The information disclosure statement (IDS) submitted on 04/27/2006 has been placed in record and considered by the examiner.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 51, 52, 73 and 74 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With respect to independent claims 51 and 73, the applicant's specification does not specify "a computer program product" to exclude from the computer program, therefore, one of ordinary skill in the art could interpret that the computer program product is the computer programs. Since, the computer programs are considered an abstract idea, because the computer programs are not physical "things" and/or are not "acts" being preformed; thus, "a computer program product" is non-statutory subject matter.

With respect to independent claims 52 and 74, the applicant's specification describes that "a computer program element comprising... computer program code means to make a portable communication device execute, when said program element is loaded in the portable communication device... The program code can also be downloaded remotely from a server either outside or inside the cellular network or be

Art Unit: 2617

downloaded via a computer like a PC to which the phone is temporarily connected" (see [0072], [0073] and [0097]). Thus, one of ordinary skill in the art could interpret that the claimed limitation "computer program element" could be a signal medium, which is used for containing, storing, communicating, propagating or transporting the computer programs. Since, the signal medium is not fallen within one of four statutory categories of invention; therefore, it is non-statutory subject matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filled in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filled in the United States before the invention by the applicant for patent, except that an international application filled under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filled in the United States only if the International application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 36, 37, 42-44, 49-58, 61-68 and 71-74 are rejected under 35 U.S.C. 102(e) as being anticipated by Paakkonen (US 2004/0121818).

Regarding claim 36, Paakkonen discloses a method of sending a call relevance flag ("send a ringing image call set-up message" see [0024] and [0026]; or "flag" see [0028] and [0047]) with a call for use in alerting a called party ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]), the method comprising:

Art Unit: 2617

selecting, by a calling party, at least one call relevance flag ("a ringing image identifier may be selected by the user of the originating mobile station" see [0026]) for use in alerting a called party of a phone call (fig. 8, step 812 and [0048]-[0049]),

setting up a voice connection to a called party phone ("originating mobile station 100 to initiate call establishment" see [0025]), and

transmitting said at least one call relevance flag to the called party phone during the setting up of the voice connection ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]), such that the call relevance flag can be used for selecting a manner of alerting the called party of the phone call provided over the voice connection (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 37, Paakkonen discloses the method according to claim 36, wherein the flag is transmitted during a signaling phase for setting up the connection ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]).

Regarding claim 42, Paakkonen discloses the method according to claim 36, further comprising:

selecting at least one media object for use in alerting the called party ("a ringing image identifier may be selected by the user of the originating mobile station" see [0026]), and

Art Unit: 2617

transmitting the at least one media object to the called party phone during the setting up of the voice connection ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]), such that the called party can use the media object when being alerted about the phone call provided over the connection (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 43, Paakkonen discloses a portable communication device (fig. 3) for sending a call relevance flag ("send a ringing image call set-up message" see [0024] and [0026]; or "flag" see [0028] and [0047]) with a call ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]) for use in alerting a called party (fig. 8, step 812 and [0048]-[0049]), the portable communication device comprising:

a control unit (fig. 3, 320) arranged to receive a selection by a user of at least one call relevance flag ("a ringing image identifier may be selected by the user of the originating mobile station" see [0026]) to be used in selecting a manner of alerting a called party of a phone call (fig. 8, step 812 and [0048]-[0049]), and

a communication unit (fig. 3) arranged to set up a voice connection to a called party phone ("originating mobile station 100 to initiate call establishment" see [0025]), and transmit the call relevance flag to the called party phone during the setting up of the voice connection ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]).

Art Unit: 2617

Regarding claim 44, Paakkonen discloses the portable communication device according to claim 43, wherein the communication unit is arranged to transmit the call relevance flag during a signaling phase for setting up the connection ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]).

Regarding claim 49, Paakkonen discloses the portable communication device according to claim 43, wherein the control unit is further arranged to select at least one media object ("a ringing image identifier may be selected by the user of the originating mobile station" see [0026]) for use in alerting a called party of a phone call (fig. 8, step 812 and [0048]-[0049]) and provide the media object for transmission to a called party phone and the communication unit is arranged to transmit the media object to the called party phone during the setting up of the voice connection ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]).

Regarding claim 50, Paakkonen discloses the portable communication device according to claim 43, wherein the portable communication device includes a cellular phone ("mobile phones" see [0024]).

Regarding claim 51, Paakkonen discloses a computer program product

("Memory 230 and SIM 240 may provide storage for programs" see [0035]) comprising
a computer readable medium, having thereon computer program code means, to make

Art Unit: 2617

a portable communication device perform, when said program is loaded in the portable communication device, a method comprising:

selecting at least one call relevance flag ("a ringing image identifier may be selected by the user of the originating mobile station" see [0026]) for use in alerting a called party of a phone call (fig. 8, step 812 and [0048]-[0049]), requesting a setting up of a voice connection to a called party phone ("originating mobile station 100 to initiate call establishment" see [0025]), and

transmitting said at least one call relevance flag to the called party phone during the setting up of the voice connection ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]), the call relevance flag being used for selecting a manner of alerting the called party of the phone call provided over the voice connection (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 52, Paakkonen discloses a computer program element

("Memory 230 and SIM 240 may provide storage for programs" see [0035]) comprising:

computer program code means ("program... application" see [0035]) to make a

portable communication device perform, when said program element is loaded in the

portable communication device ("Memory 230 and SIM 240 may provide storage for

programs" see [0035]), a method comprising:

selecting at least one call relevance flag ("a ringing image identifier may be selected by the user of the originating mobile station" see [0026]) for use in alerting a called party of a phone call (fig. 8, step 812 and [0048]-[0049]), and at least order the

Art Unit: 2617

setting up a voice connection to a called party phone ("originating mobile station 100 to initiate call establishment" see [0025]) and transmission of said at least one call relevance flag to the called party phone during the setting up of the voice connection ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]), such that the call relevance flag can be used for selecting a manner of alerting the called party of the phone call provided over the voice connection (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 53, Paakkonen discloses a method of using a call relevance flag ("send a ringing image call set-up message" see [0024] and [0026]; or "flag" see [0028] and [0047]) received in relation to a call (fig. 8, step 802 and [0046]), the method comprising:

receiving a call relevance flag from a calling party phone during a set up of a voice connection (fig. 8, step 802 and [0046]), selecting a manner of alerting a called party based on the call relevance flag (fig. 8, step 808 and [0048]-[0049]), and alerting the called party about the call in the selected manner (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 54, Paakkonen discloses the method according to claim 53, wherein the call relevance flag is received during a signaling phase for setting up the connection (fig. 8, step 802 and (0046)).

Art Unit: 2617

Regarding claim 55, Paakkonen discloses the method according to claim 53, wherein the selecting comprises: selecting at least one media object corresponding to the call relevance flag (fig. 8, step 808 and [0048]-[0049]), and wherein the alerting comprises: using the media object for alerting the called party (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 56, Paakkonen discloses the method according to claim 55, wherein said at least one media object includes a ring tone and wherein the alerting comprises using the ring tone for alerting the called party (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 57, Paakkonen discloses the method according to claim 55, wherein said at least one media object includes a piece of text and wherein the alerting comprises displaying that text when alerting the called party ("text" see [0043] and fig. 8, step 812).

Regarding claim 58, Paakkonen discloses the method according to claim 55, wherein said at least one media object includes an image and wherein the alerting comprises displaying the image when alerting the called party (fig. 8, step 812 and [0048]-[0049]).

Art Unit: 2617

Regarding claim 61, Paakkonen discloses the method according to claim 53, wherein the receiving comprises:

receiving a media object from the calling party phone during the set up of the voice connection (fig. 8, step 802 and [0046]) and wherein the method further comprises:

alerting the called party using the media object (fig. 8, step 812 and [0048]- [0049]).

Regarding claim 62, Paakkonen discloses a portable communication device (fig. 3) for using a call relevance flag ("send a ringing image call set-up message" see [0024] and [0026]; or "flag" see [0028] and [0047]) received in relation to a call (fig. 8, step 802 and [0046]), the portable communication device comprising:

a communication unit (fig. 3, 375) arranged to receive a call relevance flag (fig. 8, step 802 and [0046]-[0048]) from a calling party phone during a set up of a voice connection ("transmitted to terminating mobile station 130 in connection with call establishment" see [0024]),

a control unit (fig. 3, 320) arranged to select a manner of alerting a called party based on the call relevance flag (fig. 8, step 808 and [0048]-[0049]), and

at least one alerting unit (fig. 3, 300 and 350) arranged to alert the called party in the selected manner of a call being made via the voice connection (fig. 8, step 812 and [0048]-[0049]).

Art Unit: 2617

Regarding claim 63, Paakkonen discloses the portable communication device according to claim 62, wherein the communication unit is arranged to receive the call relevance flag during a signaling phase for setting up the voice connection (fig. 8, step 802 and f00461).

Regarding claim 64, Paakkonen discloses the portable communication unit according to claim 62, wherein the control unit, when selecting, is arranged to select at least one media object corresponding to the call relevance flag (fig. 8, step 808 and [0048]-[0049]) and wherein the at least one alerting unit alerts the called party using the media object (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 65, Paakkonen discloses the portable communication unit according to claim 64, wherein the alerting unit includes a display, a vibrator, a speaker, an earphone or a microphone (fig. 3).

Regarding claim 66, Paakkonen discloses the portable communication device according to claim 64, wherein said at least one media object includes a piece of text, and wherein the at least one alerting unit includes a display that is arranged to display the text when alerting the called party ("text" see [0043] and fig. 8, step 812).

Regarding claim 67, Paakkonen discloses the portable communication device according to claim 64, wherein said at least one media object includes an image, and

Art Unit: 2617

wherein the at least one alerting unit includes a display that is arranged to display the image when alerting the called party (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 68, Paakkonen discloses the portable communication device according to claim 64, wherein said at least one media object includes a ring tone, and wherein the at least one alerting unit comprises a speaker and a ring tone generating unit arranged to use the ring tone for alerting the called party (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 71, Paakkonen discloses the portable communication device according to claim 62, wherein the communication unit is further arranged to receive a media object from the calling party phone during the set up of a voice connection (fig. 8, step 802 and [0046]) and the at least one alerting unit is further arranged to alert the called party of a call being made via the voice connection using the received media object (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 72, Paakkonen discloses the portable communication device according to claim 62, wherein the portable communication device includes a cellular phone ("mobile phones" see [0024]).

Regarding claim 73, Paakkonen discloses a computer program product

("Memory 230 and SIM 240 may provide storage for programs" see [0035]) comprising

Art Unit: 2617

a computer readable medium, having thereon computer program code means, to make a portable communication device perform, when said program is loaded in the portable communication device, a method comprising:

receiving a call relevance flag ("a ringing image call set-up message" see [0024] and [0026]; or "flag" see [0047]) from a calling party phone during a set up of a voice connection (fig. 8, step 802 and [0046]),

selecting a manner of alerting a called party of the call based on the call relevance flag (fig. 8, step 808 and [0048]-[0049]), and

alerting the called party about the call in the selected manner (fig. 8, step 812 and [0048]-[0049]).

Regarding claim 74, Paakkonen discloses a computer program element
("Memory 230 and SIM 240 may provide storage for programs" see [0035]) comprising:
computer program code means to make a portable communication device perform,
when said program element is loaded in the portable communication device, a method
comprising:

receiving a call relevance flag ("a ringing image call set-up message" see [0024] and [0026]; or "flag" see [0047]) from a calling party phone during a set up of a voice connection (fig. 8, step 802 and [0046]),

selecting manner of alerting a called party of a call based on the call relevance flag (fig. 8, step 808 and [0048]-[0049]), and

Art Unit: 2617

alerting the called party about the call in the selected manner (fig. 8, step 812 and [0048]-[0049]).

Claim Rejections - 35 USC § 103

 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

I) Claims 38, 39, 45, 46, 59 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paakkonen in view of Heinonen (US 6.671.370).

Regarding claim 38, Paakkonen discloses the method according to claim 36, except wherein one call relevance flag is a flag indicating a priority of the call according to the calling party. However in analogous art, Heinonen teaches wherein one call relevance flag is a flag indicating a priority of the call according to the calling party ("a priority bit, or flag, indicates the importance of the call being received as high importance, as low importance, or as normal importance" see col. 3, lines 49-62). Since, Paakkonen and Heinonen are related to the method wherein the calling party can send a specific ring tone to the called party; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Paakkonen as taught by Heinonen for purpose of allowing the called party to recognize what is priority level of the incoming call based on the ring tone ("This priority indication").

Art Unit: 2617

can be provide by visual information that appears on a screen that is associated with the recipient handset, and/or by sound information that is recognized by the recipient as identifying different priority levels (for example, a high importance call, a low importance call, or a normal call)" see col. 3, lines 57-62); thus increasing the quality of service.

Regarding claim 39, Heinonen further discloses the method according to claim 38, wherein the priority is a priority in a group including low priority, normal priority and high priority (for example, a high importance call, a low importance call, or a normal call)" see col. 3, lines 57-62).

Regarding claim 45, Paakkonen discloses the portable communication device according to claim 43, except wherein one call relevance flag is a flag indicating a priority of the call according to the user. However in analogous art, Heinonen teaches wherein one call relevance flag is a flag indicating a priority of the call according to the calling party ("a priority bit, or flag, indicates the importance of the call being received as high importance, as low importance, or as normal importance" see col. 3, lines 49-62). Since, Paakkonen and Heinonen are related to the method wherein the calling party can send a specific ring tone to the called party; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Paakkonen as taught by Heinonen for purpose of allowing the called party to recognize what is priority level of the incoming call based on the ring tone ("This priority indication can be provide by visual information that appears on a screen that is

Art Unit: 2617

associated with the recipient handset, and/or by sound information that is recognized by the recipient as identifying different priority levels (for example, a high importance call, a low importance call, or a normal call)" see col. 3, lines 57-62); thus increasing the quality of service.

Regarding claim 46, Heinonen further discloses the portable communication device according to claim 45, wherein the priority is a priority in a group including low priority, normal priority and high priority (for example, a high importance call, a low importance call, or a normal call)" see col. 3, lines 57-62).

Regarding claim 59, Paakkonen discloses the method according to claim 53, except wherein one call relevance flag is a flag indicating a priority of the call according to a calling party. However in analogous art, Heinonen teaches wherein one call relevance flag is a flag indicating a priority of the call according to the calling party ("a priority bit, or flag, indicates the importance of the call being received as high importance, as low importance, or as normal importance" see col. 3, lines 49-62). Since, Paakkonen and Heinonen are related to the method wherein the calling party can send a specific ring tone to the called party; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Paakkonen as taught by Heinonen for purpose of allowing the called party to recognize what is priority level of the incoming call based on the ring tone ("This priority indication can be provide by visual information that appears on a screen that is associated with

Art Unit: 2617

the recipient handset, and/or by sound information that is recognized by the recipient as identifying different priority levels (for example, a high importance call, a low importance call, or a normal call)" see col. 3, lines 57-62); thus increasing the quality of service.

Regarding claim 69, Paakkonen discloses the portable communication device according to claim 62, except wherein one call relevance flag is a flag indicating a priority of the call according to a calling party. However in analogous art, Heinonen teaches wherein one call relevance flag is a flag indicating a priority of the call according to the calling party ("a priority bit, or flag, indicates the importance of the call being received as high importance, as low importance, or as normal importance" see col. 3, lines 49-62). Since, Paakkonen and Heinonen are related to the method wherein the calling party can send a specific ring tone to the called party; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Paakkonen as taught by Heinonen for purpose of allowing the called party to recognize what is priority level of the incoming call based on the ring tone ("This priority indication can be provide by visual information that appears on a screen that is associated with the recipient handset, and/or by sound information that is recognized by the recipient as identifying different priority levels (for example, a high importance call, a low importance call, or a normal call)" see col. 3, lines 57-62); thus increasing the quality of service.

Art Unit: 2617

 Claims 40, 41, 47, 48, 60 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paakkonen.

Regarding claims 40, 41, 47, 48, 60 and 70, Paakkonen does not specifically disclose that wherein one call relevance flag is a flag indicating a mood of the calling party, wherein the mood is a mood in a group including angry, sad, happy, content, nervous, anxious and scared. However, Paakkonen teaches that the calling party can select a specific ringing image (read on the claimed limitation "call relevance flag") which can be a picture ("a ringing image identifier may be selected by the user of the originating mobile station 100 from a plurality of ringing image identifiers stored in station 100 and transmitted as part of the ringing image call setup message 102" see [0026]) and/or text ("selecting one or more files such as audio, images/video, text, etc." see [0042] and "each ringing image may include data comprising a combination of sound and images/video coupled with text together with a format for presenting such multimedia to the user" see [0031]); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teaching of Paakkonen to indicating a mood of the calling party as the calling party having a choice to send a specific picture or specific note to show the calling party's mood such as angry, sad, happy, content, nervous, anxious and scared, so that the called party can see it before the called party accepts the call: thus increasing the quality of service.

Conclusion

Art Unit: 2617

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a) Colmenarez discloses that "the viewer sends snapshots from the attached camera and flags the photos as expressions of the viewer when happy, sad, angry, anxious, afraid, disgusted, etc" (see specification).
- b) Deed discloses that "based upon the output control signal, the output reproduction device, such as the ringer 95, audibly reproduces the ringing tone to thereby alert the user of the mobile station to the incoming call" (see specification).
- c) Lewis discloses that "A message priority, in the form of a flag, may be associated with each message. In this manner, priorities may be associated with each message and delivery schemes may be established based on message priority. For example, a priority flag may be set to a priority of "urgent."" (see specification).
- d) Teranishi discloses that "a novel telecommunication device capable of recognizing the priority for displaying the high priority call with a priority-indicating flag to enable the user to visually recognize the priority" (see specification).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Q Phan whose telephone number is 571-272-7924. The examiner can normally be reached on 9AM-7:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/595,565 Page 20

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Huy Q Phan/ Primary Examiner, Art Unit 2617 Date: 06/04/2009